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AZ CORP COMMISSION
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Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Re: Comments on Proposed Changes to the Environmental Portfolio Standard Rules (Docket Nos. RE-00000C-00-0377)

To: The Arizona Corporation Commission:
The Honorable Chairman Marc Spitzer
The Honorable Commissioner Jeff Hatch-Miller
The Honorable Commissioner William Mundell
The Honorable Commissioner Mike Gleason
The Honorable Commissioner Kristin Mayes

We submit these comments on behalf of the Clean Energy Group (CEG). Clean Energy Group is a non-profit organization working to increase the use of cleaner energy technologies. We also manage the Clean Energy States Alliance (CESA), a multi-state coalition of state clean energy funds and programs. CESA was formed in 2002 to serve as a membership-based organization for states to work together to develop and promote clean energy technologies and to create and expand the markets for these technologies. CESA provides information and technical assistance to its state members, and we have created a network of best practices in the state clean energy field.[1] (See www.cleanenergystates.org). The State of Arizona, through the Department of Commerce, currently is considering joining CESA.

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[1] Currently, CESA members include:

California Energy Commission
Connecticut Clean Energy Fund
Illinois Clean Energy Community Foundation
Massachusetts Renewable Energy Trust
Xcel Energy Renewable Development Fund
New Jersey Clean Energy Programs
NYSERDA
New Mexico Energy, Minerals & Natural Resources
Ohio Energy Loan Fund
Energy Trust of Oregon
Sustainable Energy Fund of Central Eastern PA
West Penn Power Sustainable Energy Fund
Pennsylvania Electric Company Sustainable Energy Fund
Metropolitan Edison Company Sustainable Energy Fund
Sustainable Development Fund (PA)
Rhode Island Renewable Energy Fund
Wisconsin Department of Administration

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**General Goals, Strategies, and Administration of Program**

Our experience with the CESA states has proved to be useful in identifying the pros and cons of various directions that a state can pursue in establishing a renewable energy program. As the Commission considers changes to the Environmental Portfolio Standard Rules and whether to establish a Uniform EPS Credit Purchase Program, CEG would be pleased to assist the Commission and other stakeholders in identifying renewable energy program strategies and administrative practices that have worked well in other states.

To achieve the goals of the Arizona EPS, we believe that it is important for the Commission to consider, design, and implement a comprehensive renewable energy program that is innovative, cost-effective, and ultimately self-sustaining. Achieving these goals requires a cohesive strategy including strategic planning, effective program design and administration, marketing and public education, and a close working relationship with the state's utilities.

Many other U.S. states, and a large number of countries, have embarked on similar efforts in the past few years. For example, at least 20 states now have adopted renewable portfolio standards. And at least 15 states have – in the past five years – established some sort of renewable energy funding, incentive and/or rebate program for renewable energy. These programs equate to approximately $3.5 billion to be spent on renewable energy through 2012, and early experiences are now being gained from these efforts. Through these state efforts, the states have become a leading driver in developing practical clean energy solutions for the United States.

Over the last few years, CEG/CESA has taken a critical look at these state-level, clean energy efforts to identify potential models for other states. We have been able to identify innovative and best practices from across the U.S. – cutting edge efforts to bring renewable and clean energy technologies into the marketplace. We also have developed a series of case studies highlighting innovative program and administrative practices, most of them about new state-level approaches to support renewable energy in the U.S. The case studies can be found at www.cleanenergystates.org; the studies may be useful to the Commission in revising the EPS Rules, in considering program administration issues, and in putting in place clean energy strategies critical to the success of the EPS.

CEG understands that Arizona's EPS program today is managed directly by the regulated electric utilities, which collect the surcharge tariff and determine what renewable projects to procure, what EPS credit purchase programs to offer, etc. Arizona's approach is unique as most of the other states have established independent administrators to accelerate the development of renewable energy. While exclusive utility administration may meet the particular objectives and needs of Arizona, CEG has considerable experience with the range of administrative approaches, and their respective merits, to meet state clean energy goals. For example, as discussed in more detail below, other states have employed several different organizational models, including state energy offices, quasi-public agencies, public regulatory agencies, and non-profit organizations.

States should always identify the best organizational structure to match their goals and situation. However, the Commission may want to consider establishing shared responsibilities for program administration between the state utilities and a new independent administrator, with the respective responsibilities assigned based on which entity is in the best position to meet the particular challenges to meeting EPS goals. For example, the utilities could continue to administer certain aspects of the EPS program (self-build and RFP decisions), but an independent administrator could be established with responsibility for deploying a portion of the surcharge that is dedicated to a clean energy fund. The fund could be used for such activities as public education and marketing, monitoring and evaluation, fostering investment in clean energy companies and projects, providing financial incentives to subsidize project installation, offering business development grants and technical assistance, funding demonstration projects, and delivering a portfolio of program options to support clean energy technologies.

Combining a range of clean energy support programs in one independent organization and in one fund can facilitate a comprehensive strategy to address a range clean energy development and market issues, and complement the goals of the EPS. And while the EPS is generally aimed at jump-starting commercially-ready technologies, the Commission may want to consider use of the surcharge tariff to fund renewable energy options with longer-term benefits, which are of less interest to utility distribution companies. Because of its flexibility, a state clean fund can be an invaluable tool for complementing the EPS, making this policy more effective.

CEG offers its assistance as the Commission considers the merits of establishing the appropriate administrative oversight for the program. We have provided similar assistance to many individual states in selecting the most appropriate administrative organization, implementation practices, and program options in the design of their renewable energy programs. For example, we provided detailed analysis and assistance to the State of Oregon when that state developed its 5-year strategic plan for its new renewable energy program. In 2002, the Oregon Public Utilities Commission created a new, nonprofit organization – the Energy Trust of Oregon – to administer the renewable energy funding and program work. We assisted the Energy Trust in formulating program options, framing issues of strategic direction and goals, and designing implementation strategies for consideration by the Trust and the Commission. Specifically, CEG summarized the most effective state renewable energy programs, highlighted administrative practices that were particularly pertinent to Oregon, and identified administrative and programmatic pitfalls that other states have experienced in implementing their renewable programs.

CEG would be glad to provide similar assistance to the Arizona Corporation Commission and/or staff, if it would be useful.

## Specific Comments on the Arizona Program

Here are a few general observations on administration of such a program/fund in light of the experience with the other state approaches being employed to maximize the use of renewable energy in states in a cost effective manner.

***Experience with Other State Renewable Programs.*** There are some fifteen states that have some form of renewable energy fund, system benefit charge, or incentive/rebate program.

***Government Administration***. Most of these programs have some form of government or quasi-agency administration in place – either through a public corporation, executive branch agency or utility commission. Some characteristics of these "government" run programs are the following:

- **Program managers**. The managers typically are state employees, either in executive branch agencies or state "public corporations" that are similar to executive branch employee status.

- **The oversight for these programs varies**. For the renewable programs/funds directly run by utility commissions (NJ, RI, CA), the programs are managed directly by regulatory employees; there are no independent boards to oversee that activity. For the funds/programs run by state public benefit corporations (MA, CT, NY), the boards of their parent corporations oversee the administration; these boards are typically combinations of private citizens and public officials.

- **Role of utility in administration**. In some cases, utility representatives serve in some advisory or board capacity in administration of some funds, but that is the exception for funding programs of any significant size and scope. In one of the programs – Minnesota – an investor owned utility runs the program. In Minnesota, the state legislature created the Xcel Energy Renewable Development Fund. Project funding is in the form of grants and program supports. The Fund is administered by Xcel Energy, with a five member board responsible for the oversight of the Fund. However, the Minnesota public utilities commission recently issued an order requesting an examination of the merits of continued administration of the fund by the utility (see attached). CEG has been asked to brief the parties to that docket on the various options available as alternatives to exclusive utility administration. Finally, in New Jersey, while the utilities previously controlled the renewable energy fund, these responsibilities now have been assumed by the New Jersey Board of Public Utilities. (Note: there are some public or municipal utilities that continue to manage their own funding programs).

- **Role of utility commission**. With commission run programs, the role of the commission is self-evident. With public corporation type programs, the role of the utility commission varies. In MA and CT, the utility commission has a limited role in oversight of expenditures at the program level and none at the project level.

***Independent Administrator Model***. Six of the state renewable funding programs have some form of "independent" administrative structure in place. The state programs that are independently administered are the following:

- Sustainable Development Fund (PA)
- Sustainable Energy Fund of Central Eastern Pennsylvania
- West Penn Power Sustainable Energy Fund
- Pennsylvania Electric Company Sustainable Energy Fund of the Community Foundation for the Allegheniesdi

- Metropolitan Edison Company Sustainable Energy Fund of The Berks County Community Foundation
- Illinois Clean Energy Community Foundation
- Energy Trust of Oregon

Key characteristics of these "independently administered programs" are:

- **Program managers**. The managers typically are not state employees, but employees of nonprofit or independent organizations.

- **The oversight for these programs varies**. The existing or expanded boards of the nonprofit organizations oversee the administration of these programs.

- **Public oversight.** The Oregon program is the best example of how these independent entities are still subject to public review. In the case of Oregon, the utility commission has an ex officio representative on the board of the Oregon Trust, while the Trust also is required to develop an annual budget and strategic plan that are filed and approved on an annual basis by the utility commission. (This does not include approval of specific projects). This form of oversight has worked well, and provides a good balance of independence and public oversight

***Economic Development Focus***. Increasingly, state programs are using practices and administration structures designed to achieve economic development, investment and technology innovation goals. For example, Massachusetts chose the Massachusetts Technology Collaborative (MTC) to administer its clean energy funds because one of the main goals of the fund is to create a clean energy industry. This goal fit well with MTC's charter, which is to foster high-tech industry "clusters" in the state. Another interesting example is offered by Pennsylvania where the clean energy fund is managed by an independent, nonprofit corporation as a community development financial institution. The corporation, The Reinvestment Fund (TRF) employs a market-driven investment approach to promote sustainable energy technologies in the market while assisting Pennsylvania to meet its RPS goals. TRF's market-driven approach involves grant-based programs as well as company or project-based loans, near-equity, and equity investments.

***Need for Public Education and Marketing of Clean Energy.*** The importance of a visible marketing, messaging and public awareness campaign also is critical to the success of an RPS and state clean energy program. Therefore, we recommend that the Commission consider allocating some of the tariff surcharge for a consumer education and marketing campaign to effectively market clean energy in Arizona.

Lessons learned from polling and focus groups in a series of states indicate that the successful implementation of a state clean energy program and RPS requires consistent messaging and a marketing and public awareness campaign. Such a campaign should be designed to raise the public understanding of clean energy and coupled with one or more clear calls to action for both residential and large institutional electricity customers. CEG and its collaborative partner, SmartPower, have extensive experience in successfully working with states to build the appropriate marketing and public awareness campaigns to fit the needs of respective states. The goal is to help expand consumer awareness of and demand for clean energy through marketing and messaging.

In October 2003, CEG, CESA, and SmartPower initiated research to identify messages that would be most effective in making the public understand that clean energy is important and desirable. We were looking to understand why, if so many quantifiable studies show public interest in clean energy and willingness to pay, has there been so little market movement. As a result of our research, CEG believes that a state's success at meeting renewable energy objectives will require implementation of broad and strong messaging combined with targeted media activity. This is necessary to develop consumer interest in supporting a strong clean energy market. To that end, we recommend that the Commission authorize the funding and development of a pilot public education/marketing campaign for Arizona to support to EPS.

As for the administration and oversight of such a public education effort, it is our experience that a central agency, preferably with some state wide reach, be involved in an important way to oversee and implement such a program, if adopted. The goal of such a program should be consistent and effective messaging, which can be difficult to accomplish with different utility run efforts. Certainly, the challenges are greater with a patchwork scheme across a given state.

***Offer of Assistance***. As the Commission and its stakeholders move forward, CEG would be pleased to assist in the following ways:

- **Strategic Meeting.** We could participate in a future meeting to discuss program options and actual design in more detail with Arizona officials and stakeholders.

- **Materials.** If it would be helpful, we could provide the Commission and/or stakeholders with more details from the relevant state programs that explain their operation.

- **Concept Development.** We would be pleased to assist the Commission or stakeholders in developing a strategic plan and program administration options for consideration in the state.

## Conclusion

CEG's collective state experiences may be helpful to Arizona as the Commission develops revised rules and approaches to support the objectives of the ESP. We look forward to working with you and other officials to give the state the best possible information on which to make sound public policy decisions. In the meantime, if the Commission has any questions regarding CEG or CESA, please feel free to contact me at (802) 223-2554 or msinclair@cleanegroup.org. Our CESA website, www.cleanenergystates.org, is also a great source for information on our activities and members.

Thank you for your kind attention.

Sincerely,

Mark Sinclair
Vice President
Clean Energy Group

Enclosure

cc: Ray T. Williamson, Staff, Arizona Corporation Commission
Ernest Johnson, Director, Utilities Division, Arizona Corporation Commission
Christopher Kempley, Chief, Legal Division, Arizona Corporation Commission
Lyn Farmer, Chief, Hearing Division, Arizona Corporation Commission

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

| | |
|---|---|
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| Marshall Johnson | Commissioner |
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| Thomas Pugh | Commissioner |
| Phyllis A. Reha | Commissioner |

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In the Matter of a Request of Northern States Power Company d/b/a Xcel Energy for Approval of a Renewable Development Fund Oversight Process

ISSUE DATE: August 3, 2005

DOCKET NO. E-002/M-00-1583

ORDER AUTHORIZING ADDITIONAL ADMINISTRATIVE EXPENDITURES AND REQUIRING FURTHER FILINGS

## PROCEDURAL HISTORY

### I. Factual Background

Under Minn. Stat. § 116C.779, Northern States Power Company d/b/a Xcel Energy (Xcel) must deposit $16,000,000 in a renewable energy development fund during each year that it operates the Prairie Island nuclear power plant *and* stores nuclear waste in one or more dry casks at the nuclear waste storage facility at that plant. The statute requires that the fund be used only to develop renewable energy sources and that no expenditures be made without approval by Commission Order. The statute left it to the Commission to set the substantive and procedural standards under which the fund would operate.

On April 20, 2001, the Commission issued its first Order setting operational guidelines for the fund, now known as the Renewable Development Fund.[1] The Order established procedural and eligibility requirements for financial awards, which would be administered by a Renewable Development Fund Board with input from Xcel and oversight by the Commission. The Commission also required the Renewable Development Fund Board to file a report at the end of the first funding cycle summarizing lessons learned and outlining any proposed process improvements.[2]

[1] Order Adopting Proposal for Oversight and Operation of Renewable Development Fund, April 20, 2001, this docket.

[2] Order Approving Selected RDF Projects and Requiring Filing on Process Improvements, April 3, 2002, this docket.

On July 29, 2003, after reviewing the Board's report on the first funding cycle, its recommendations on process improvements, and stakeholder comments on both issues, the Commission issued an Order revising some of the operational guidelines and oversight procedures. Among other things, that Order added a representative of the Prairie Island Indian Community to the Renewable Development Fund Board, which had previously had four members, two appointed by Xcel and two appointed by the environmental community.

The Order also required the Board to make further filings on process improvements, recognizing that the Fund's administrative structure and procedures would always, to some extent, be a work in progress: "[d]eveloping criteria and procedures for selecting and funding projects representing an annual ratepayer investment of $16,000,000 is a complex and necessarily iterative process."

Since that time the Commission has issued two more Orders requiring filings on process improvements: (1) an August 17, 2004 Order, directing the Board to work with Department of Commerce and Commission staff to address concerns relating to administrative issues and Board membership; and (2) a February 23, 2005 Order, directing the Board to work with staff from the Department of Commerce, the Commission, and the Institute for Local Self-Reliance to address issues relating to Fund performance measures and public access to Renewable Development Fund study results.

## II. The Filings at Issue

On November 3, 2004, Xcel filed an interim report on the stakeholder meetings required under the August 17 Order, reporting that progress was being made.

On May 26, 2005, the stakeholder group filed a report seeking authorization to spend up to 5% of the Fund's current, annual allocation on new administrative resources, mainly legal services, consultant services, and personnel with specialized skills in developing and administering grant contracts. The report stated that the stakeholder group intended to focus on the broader questions facing the Fund, including its purpose and goals, performance measures, Board composition, and long-term administrative structure, once these specialized resources were in place.

On June 6, 2005, the Institute for Local Self-Reliance filed comments opposing the request for funding on grounds that it was important to settle fundamental issues such as the purpose, direction, goals, and administrative structure of the Fund before providing resources that could institutionalize practices and structures adopted without adequate consideration.

On June 28, 2005, Xcel filed comments stating that the stakeholder group planned to address the broader issues raised by the Institute but that the Fund needed immediate assistance with grant development and administration.

On July 14, 2005, the matter came before the Commission. At that time the Institute withdrew its objection to short-term funding for grant development and administration, as long as funds were also appropriated to assist in developing and addressing the larger issues facing the Fund.

## FINDINGS AND CONCLUSIONS

The Commission concurs with all commenting parties that there is a clear need for additional, specialized resources to assist Xcel and the Renewable Development Fund Board in the day-to-day administration of the Fund and the development and management of grant contracts. These tasks are not within the core areas of expertise of either Xcel or the volunteer members of the Board, and it is neither reasonable nor prudent to require them to continue to shoulder these responsibilities without additional, specialized resources.

Furthermore, unless they secure these specialized resources, Xcel and the Board will continue to find their time and attention monopolized by daily administrative tasks and will be unable to focus on the larger issues facing the Fund.

The Commission will therefore authorize additional expenditures through September 30, 2006, for contract development and grant administration, including contract monitoring and evaluation. These expenditures must remain within 5% of the Fund's total annual allocation, as required in the initial Order setting the Fund's administrative parameters.[3] And to avoid institutionalizing administrative structures that might not serve the long-term interests of the public and the Fund, the Commission will direct Xcel not to characterize the positions funded under this Order as permanent staff positions, but to disclose that, at this point, their funding ends on September 30, 2006.

Xcel, the Board, and interested stakeholders will then be free to consider in greater depth and detail the larger issues facing the Fund, including at least the following:

- The purpose and goals of the Fund
- The long-term administrative and organizational structure of the Fund, including the composition of the Board
- Administrative cost cap levels
- Performance measurement and evaluation
- Public access to project information and results

The Commission will require Xcel to examine these issues in conjunction with the Renewable Development Fund Board, the Institute for Local Self-Reliance, the Minnesota Chamber of Commerce, the Department of Commerce, and Commission staff, and to file a report and recommendations, including a discussion of minority views, by December 1, 2005. The Commission will use this report as the foundation for public review of these issues, soliciting comments from interested persons and determining future procedural and substantive directions on the basis of those comments.

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[3] Order Adopting Proposal for Oversight and Operation of Renewable Development Fund, Attachment A, page 3, April 20, 2001, this docket.

Finally, the Commission will accept the proposal in the stakeholder report for improvement of the project management system used for the Renewable Development Fund and will require Xcel to keep the Department and the Commission informed of the status of grant contracts and amendments through quarterly reports. The stakeholder group is correct in not losing sight of the duty to support and monitor ongoing projects as the focus shifts to broader issues.

The Commission will so order.

## ORDER

1. The Commission hereby authorizes expenditures from the Renewable Development Fund for additional administrative expenses, including costs associated with grant contract development, grant administration, monitoring and evaluation, and a formal process to examine the broader, long-term issues facing the Fund. These expenditures are authorized through September 30, 2006. Any additional staff positions created for these purposes shall not be characterized as permanent positions.

2. Total administrative expenditures shall not exceed the cap set by the Commission in its April 20, 2001 Order in Docket No. E-002/M-00-1583.

3. Xcel shall convene, participate in, and conclude discussions with the Renewable Development Fund Board, the Institute for Local Self-Reliance, the Minnesota Chamber of Commerce, the Minnesota Department of Commerce, and Commission staff on the broader, long-term issues facing the Renewable Development Fund, including those listed below:

    (a) The purpose and goals of the Fund
    (b) The long-term administrative and organizational structure of the Fund, including the composition of the Board
    (c) Administrative cost cap levels
    (d) Performance measurement and evaluation
    (e) Public access to project information and results

4. On or before December 1, 2005, Xcel shall file a report on the discussions conducted under paragraph 3, recommendations on the issues listed in paragraph 3, and an account of consensus, majority, and minority views on those issues.

5. The Commission hereby accepts the proposal in the May 26, 2005 stakeholder report for improvement of the project management system used for the Renewable Development Fund.

6. Xcel shall file quarterly reports on ongoing Renewable Development Fund grant contracts and contract amendments, as required under the proposal adopted in paragraph 5.

7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mark E. Oberlander for

Burl W. Haar
Executive Secretary

(S E A L)

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